

REMARKS

Claims 1-5, 7, 8, 10-13, 19 and 20 have been examined. No claims have been amended. Reconsideration of the claims in view of the following remarks is respectfully requested.

Claim Rejections - 35 U.S.C. §103

Claims 1-5, 7, 8, 10-13, 19 and 20 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Schafer in view of Kasson. This rejection is respectfully traversed.

As set forth in Applicants previous amendment, one limitation of independent claim 1 is that the insert contacts and rests on the bottom end of the base. As set forth at page 3, lines 1-2 of the present application, the direct contact of the insert with the grill base is critical in increasing the amount of heat transfer.

In rejecting claim 1, the Office Action recites that Kasson discloses an insert G within a grill base F to divided the grill base into separate chambers. The Office Action further recites: "In regard to the location of the insert, contacting and on the bottom of the base, such is considered an obvious manner of design choice, since the operation of the device is the same whether it is suspended within the base or resting on the base bottom." Applicants respectfully disagree.

First, Applicants note that element G within the Kasson patent is not an insert as alleged but is rather a chamber used to hold a liquid. Hence, for at least this reason the rejection set forth in the Office Action does not provide a prima facie case of obviousness because element G is not an insert.

Second, even assuming that the Kasson patent describes some structure which divides the grill base into separate chambers, it would not have been obvious to include such a structure on the bottom of the base so that it contacts the base. More specifically, the Kasson patent describes a boiler that is used for boiling water. As such, the Kasson device includes a chamber F which is supplied with water. If the structure surrounded by element G were placed into direct contact with the bottom of the base, chamber F would be eliminated and would render

the device inoperable for its intended use. Hence, the Kasson patent directly teaches away from placing any structure directly onto the base as this would eliminate chamber F and make it impossible to provide the steaming function described. Hence, such a configuration would not be a mere matter of design choice.

Therefore, for at least two reasons, a prima facie case of obviousness has not been established. Hence, it is respectfully requested that the §103 rejection of independent claim 1 be withdrawn. Claims 2-5 and 7 depend from claim 1 and are distinguishable for at least the same reasons.

With regard to the rejection of independent method claim 8, the Office Action recites that the location of the hole has not been given any patentable weight. Applicants respectfully disagree with this conclusion. The last step of independent claim 8 recites the step of heating the grill base to cause heat to be transferred to the grill member which in turn produces smoke or liquid vapors which rise up and pass through the central hole. Hence, the location of the central hole is not merely a structural limitation but directly affects the method step by permitting the smoke or liquid vapors to pass through the geometric center of the platform. Hence, it is respectfully requested that this limitation be given patentable weight. In so doing, it is clear that independent claim 8 includes features which are not taught in Schafer or Kasson as set forth in Applicants previous response. Claims 10-13 depend from claim 8 and are distinguishable for at least the same reasons.

Claims 19 and 20 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Schafer in view of Kasson and further in view of Ballentine. This rejection is respectfully traversed. As presently pending, independent claim 19 includes the limitation that the platform includes a central hole that is at a geometric center of the platform such that smoke or liquid vapors rising from the open interior of the grill pass through the hole and then through the grill member.

In rejecting independent claim 19, the Office Action relies on the Ballentine patent to teach the use of "a hole 30 in a platform 35." Applicants respectfully disagree with this characterization of the Ballentine patent. As set forth in the Ballentine patent, element 30 is not a hole but rather a deflection chamber 30 that has a top 31. As such, the steam/air mixture which

passes up into deflection chamber 30 is sent laterally outward through laterally oriented openings 33. Because of top 31, the steam does not go through a central opening in a platform but sideways, being deflected by top 31. Therefore, the Ballentine fails to describe a platform with a central hole that is at a geometric center to allow smoke or liquid vapors to pass through the hole and then through the grill member. Hence, it is believed that independent claim 19 is distinguishable without amendment. It is therefore respectfully requested that the §103 rejection of claims 19 and 20 in view of Schafer, Kasson and Ballentine be withdrawn.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

/darin j gibby
Darin J. Gibby
Reg. No. 38,464

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 303-571-4000
Fax: 303-571-4321
DJG/cl
60800085 v1